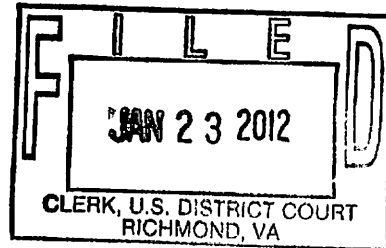


IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
RICHMOND VIRGINIA



CHARLES TISDALE

Plaintiff, pro se

v.

HONORABLE BARACK H. OBAMA, II,  
personally and in his official capacity as President of the  
United States, and DON PALMER, in his official  
capacity as Secretary of the Virginia State Board  
Of Elections, and THE VIRGINIA STATE BOARD  
OF ELECTIONS, and NEIL H. MACBRIDE, in  
His official capacity as United States Attorney for  
The Eastern District of Virginia, and THE  
FEDERAL ELECTION COMMISSION.

Defendants

Civil Action

Case No 3:12cv36

MOTION FOR  
INJUNCTION

**VERIFIED COMPLAINT**

**INTRODUCTION**

1. This is a challenge under 42 U.S.C. 1983 to the Virginia State Board of Election's (**hereinafter "The Board"**) practice of permitting candidates for the Office of President of The United States who are ineligible under Article Two, Section One, Clause Five of the United States Constitution, to campaign, promote, or assume such office in that said candidates lack standing as "natural born citizens" of the United States as required.

2. Plaintiff, a natural born United States Afro-American citizen and resident of Virginia, seeks a temporary restraining order or preliminary injunction enjoining The Board from certifying any candidate without standing as a "natural born citizen" from

appearing on the Presidential General Election ballot in Virginia on November 6, 2012.

Upon information and belief "Natural Born Citizen" under Article Two, Section One, Clause Five, is defined as an U.S. citizen at birth whose parents themselves were U.S. citizens.

3. The Board has permitted specific ineligible candidates such as (1) Barack H. Obama, II, (2) Mitt Romney, and (3) Ron Paul to declare their candidacy for the Office of President of the United States in the March 6, 2012 Virginia Presidential Primary Election, thereby leading up to the November 6, 2012 Presidential General Election. Each of said candidates who at the time of birth as United States citizens, had a parent or parents who were not themselves U.S. citizens as intended under Article Two, Section One, Clause Five.

4. Defendant Barack H. Obama, II is the current ineligible office holder as President of the United States and candidate for the November 6, 2012 Presidential General Election which The Board seeks to certify.

5. Defendant Don Palmer is the Secretary of The Board and is the person which has oversight responsibility for the actions of the Board.

6. Defendant Virginia State Board of Elections is the state entity under the Commonwealth of Virginia which provides ballot access to candidates for the November 6, 2012 Presidential General Election

7. Defendant Neil H. Macbride is the United States Attorney for the Eastern District of Virginia who is authorized by law to investigate and prosecute those who knowingly and willingly commit a violation under the Federal Election Campaign Act (FECA) 2 U.S.C. 437g(d)(1).

8. Defendant Federal Election Commission has the statutory authority to interpret the Federal Election Campaign Act and FEC's own regulations 2 U.S.C. 437d(a)(7), and 437d(a)(8).

### **JURISDICTION**

9. This action arises under the Constitution of the United States and 42U.S.C 1983.as to state defendants and 28 U.S.C. 2679 as to federal defendants. This Court has jurisdiction pursuant to Article III of the United States Constitution and 28 U.S.C. 1331, and has supplemental jurisdiction over plaintiff's state law claims pursuant to 28 U.S.C. 1367 (a). Declaratory relief is authorized at 28 U.S.C. 2201 and 2202. Venue in this Court is proper under 28 U.S.C. 1391 (b).

### **Factual Allegations**

10. With one exception not applicable here, the Virginia State Board of Elections must certify candidates for the November 6, 2012 presidential election.

11. The Virginia State Board of Elections is a political subdivision of the Commonwealth of Virginia and is therefor subject to the due process/equal protection provisions of the 14<sup>th</sup> Amendment to the United States Constitution

12. .Virginia may not abridge the First Amendment privileges of United States citizens of free speech and association through the political process with Presidential candidates as guaranteed by the 14<sup>th</sup> Amendment by certifying ineligible candidates for the Office of President, who are not "natural born citizens".

A. The Supreme Law of the land (United States Constitution) prohibits Such. This Court as an Article III independent judiciary, must (1) exercise jurisdiction, and (2) enforce the United States Constitution. Article Two Section One, Clause Five.

B. Natural Born Citizen only applies to one segment of the political process, that is, the Office of President, one can be a native born citizen or a naturalized citizen to run for Senator, Representative, Governor, etc. without any question regarding the citizenship status of their parents, but save one, and that is the Office of President.

C. The founding fathers wanted undivided loyalty and devotion to the nation from whom ever would be the chief executive of the nation and thus strictly and with certain permissible discrimination imposed Article Two, Section One, Clause Five to the Office of President.

13. The United States Supreme Court has historically addressed the issue of “natural born citizens”. In Minor v. Happersett, 88 U.S. 162 (1875), the High Court set forth;

....it was never doubted that all children born in a country of parents who were its citizens became themselves, upon their birth, citizens also. These were natives or natural-born citizens, as distinguished from aliens or foreigners...

In United States v. Wong Kim Ark, 169 U.S. 649 (1898), the High Court once again citing Minor, held;

...all children, born in a country of parents who were its citizens, became themselves, upon their birth, citizens also. These were natives, or natural born citizens, as distinguished from aliens or foreigners....

14. The 14<sup>th</sup> Amendment extended only to persons born or naturalized in the United States as “native citizens” not “natural born citizens”. Congress was given the Authority to enforce the 14<sup>th</sup> Amendment by appropriate legislation, Congress has no authority to enforce Article One, Section Two, Clause Five except by constitutional amendment, which to date it has not. The Constitutional federal question under Article One, Section Two, Clause Five is to this Court to decide, respectfully, not Congress.

15. The Supreme Court of the United States has never applied the

term "natural born citizen" to any other category than **"those born in a country of parents who were its citizens themselves"**.. The 14<sup>th</sup> Amendment is not the qualifications for the Office of President of the United States, it is Article One, Section Two, Clause Five.

### **VIRGINIA STATE BOARD OF ELECTIONS**

16. On or about December 1, 2011, The Virginia State Board of Elections permitted Barack H. Obama, II to declare his candidacy for the democratic Presidential Primary in Virginia for March 6, 2012 which is intended to lead up to the November 6, 2012 Presidential General Election.

17. The Virginia State Board of Elections knew or should have known Candidate Obama is not a "natural born citizen" of the United States whose father was a citizen of Kenya, Africa and not the United States of America, at the time of candidate Obama's birth in the United States. **(See Exhibit 1)**, which is a copy of candidate Obama's filing with the Virginia State Board of Elections seeking the office of President, and **(See Exhibit 2)**, which is a copy of candidate Obama's long form birth certificate from the State of Hawaii which indicates his father was a citizen of Kenya, Africa.

18. This matter is not a birther issue as no Court including the United States Supreme Court has ever considered whether or not President Obama is a "natural born citizen" under Article Two, Section One, and Clause Five.

19. There have been many birther cases wherein President Obama's place

of birth being outside the United States was at issue or the genuine authenticity of President Obama's United States birth certificate were at issue, those claims were rejected in general relevant to the 14<sup>th</sup> Amendment claiming President Obama was born on U.S. soil and is therefore eligible for the Office of President.

20. This instant matter before the Court asserts "no" claims that President Obama (1) is not a U.S. citizen under the 14<sup>th</sup> Amendment, (2) or that President Obama's Hawaii birth certificate is not genuine.

20. Plaintiff believes in whole that President Obama is a United States citizen born in Hawaii, however, President Obama is not and can never be a "natural born citizen" qualified under Article Two, Section One, Clause Five to currently serve as President or to now campaign for re-election for President under The United States Supreme Court holdings in Minor and Ark. further, factually that President Obama's father was not a U.S. citizen upon President's Obama's birth in the United States in order to pass on "natural born citizen" status to the President.

21. The above also applies to other Presidential candidates (1) Mitt Romney, (2) Rick Santorum, (3) Ron Paul and many other potential candidates such as (4) Chris Christy, (5) Bobby Jindal, (6) Marco Rubio, et seq. These individuals are not "natural born citizens" and do not qualify for the Office of President of the United States.

22. No election official in Virginia or in any other of the several states have the authority to override the United States Constitution, only Congress or the several states may by constitutional amendment change the prohibition under Article One, Section Two, Clause Five. This Court as an independent tribunal under Article III must

enjoin the Virginia State Election Board from certifying ineligible candidates for the November 6, 2012 Presidential General Election.

23. The Doctrine of Laches do not apply here because these ineligible candidates are themselves lawyers, members of many state bars, have access to the best and brightest of lawyers, have millions of dollars to research, they knew or should have known the law, in particular The United States Constitution., they seek to be the prime constitutional officer of the United States of America, that is, "The President".

24. Plaintiff has known for some time President Obama was not qualified and knew other candidates now campaigning for the Office of President are not qualified, but he notified both the United States Attorney for The Eastern District In Virginia, the United States Attorney General Eric Holder and the Virginia State Attorney General's Office over two years ago, they were silent!.

25. Plaintiff, suffers with triple chronic illness of the heart, kidney and lungs, is on dialysis since 2007, in 2009 suffered a heart attack on the cath table at VCU Medical Center, went into a seven week coma, on life support with respiratory trachea, feeding tube, caught pneumonia in the lungs while on the life support respirator , received dialysis cath, received pacemaker defibrillator implant, plaintiff has been extremely limited and the delay in bringing this matter to the Court lies at the very feet of The United States Attorney for the Eastern District of Virginia, Eric Holder as United States Attorney General and the Virginia Office of the Attorney General.

26. The delay may be fatal to enjoining the President from completing his term of office but not from enjoining President Obama's re-election bid, the deadline for printing ballots for the November 6, 2012 election has not yet passed and the Virginia

Board of Elections or election boards in the other several states will suffer no prejudice., the President and the declared candidates themselves knew they were not qualified and proceeded at their own peril.

27. On or about November 18, 2011, and December 20, 2011 candidate Mitt Romney filed declarations of candidacy for the Office of President of The United States with The Virginia State Board of Elections (**annexed and attached hereto as Exhibit 3**).

28. The Virginia State Board of Elections and candidate Mitt Romney knew or should have known Mitt Romney is ineligible for the Office of President under Article One, Section Two, Clause Five in that candidate Romney's father was born in Mexico although to American parents, the birth does not comply with the 14<sup>th</sup> Amendment which sets out only two instances where one can become a U.S. citizen, (1) being born on U.S. soil, and (2) being naturalized as a U.S. citizen.

29. On or about October 27, 2011 and December 22, 2011, candidate Ron Paul filed declarations of candidacy for the Office of President of The United States with the Virginia State Board of Elections (**annexed and attached hereto as Exhibit 4**).

30. The Virginia State Board of Elections and candidate Ron Paul knew or should have known Ron Paul is ineligible for the Office of President of the United States under Article Two, Section One, Clause Five in that candidate Pauls's father may have not been born in the United States, possibly in Germany as candidate Paul's grandfather was. Little records may be available in that Mr. Paul is 76 years old and records may not be readily available. Mr. Paul's web site is almost totally void of any mention of his father or mother's birth status and this may require some discovery.

31. Defendant Barack H. Obama, II, for the reasons articulated in averments



1-30 above, is in violation of Article Two, Section One, Clause Five.

32. Defendant Don Palmer, for the reasons articulated at averments 1-30 above, is in violation of Article Two, Section One, Clause Five.

**DEFENDANT NEIL H. MACBRIDE**

33. Defendant Neil H. Macbride, for the reasons articulated at averments 1-30 above, is in **intentional violation** of Article One, Section Two, Clause Five, in refusing to investigate the Virginia State Board of Elections in permitting ineligible candidates to campaign for the Office of President.

**DEFENDANT FEDERAL ELECTION COMMISSION**

34. Defendant Federal Election Commission, for the reasons articulated at averments 1-30 above, is in violation of Article One, Section Two, Clause Five.

35. Defendant Federal Election Commission under its federal statutory authority to interpret the FECA (2 U.S.C. 437c(b)(1), et seq.) adopted an unconstitutional opinion in the matter of **Abdul Hassan (Guyana Born), decided September 2011 ruling that a naturalized citizen is not prohibited by the Federal Election Campaign Act from becoming a presidential candidate as defined by the act.**

36. The Hassan decision by defendant FEC is in clear violation of Article Two, Section One, Clause Five. Hassan has no constitutional or statutory right as a naturalized citizen without U.S. citizen parents to register, campaign, declare or assume the Office of President of The United States.

37. The FEC arbitrary and capricious advisory opinion must be enjoined by this Court and declared null and void.

**CAUSES OF ACTION**

**COUNT I**

**Violation of First Amendment  
42 U.S.C. 1983**

38. Defendant Virginia State Board of Elections are unlawfully promoting a policy and practice of permitting ineligible candidates for the Office of President of The United States to acquire ballot positions for said office in violation of Article Two, Section One, Clause Five of the United States Constitution.

39. Our Constitution prohibits any person whose parent or parents where not U.S. citizens at the time of the candidate's birth as a U.S. citizen. If one's father or mother was born in Kenya, Italy, Germany, Mexico, that is not the cause of Constitutional prohibition, it is the fact that although born in foreign lands, the parent never acquired U.S. citizenship as allegiance to the United States, thereby, passing "natural born" status to their children at birth who desire to become candidates for the Office of President of the United States. Said person is only a U.S. citizen under the 14<sup>th</sup> Amendment, not a "natural born citizen" under Article Two, Section One, Clause Five eligible and qualified for the Office of President..

40. The First Amendment right to speech and association between the President or candidates for President and U.S. citizens cannot be abridged by having a President or candidates for President who do not meet the Constitutional requirement for that office, as protected under The 14<sup>th</sup> Amendment, Section 1.

**COUNT II**  
**VIOLATION OF ARTICLE TWO, SECTION ONE, CLAUSE FIVE**  
**(United States Constitution)**

41. Article Two, Section One, Clause Five of the United States Constitution sets out the qualifications for the Office of President, the founding fathers adopted one qualification, (1) that the office holder be a “natural born citizen”, (2) be at least 35 years old, (3) and be a resident of the United States for a minimum of 14 years.

42. The term natural born citizen while not defined in the Constitution itself, was defined by The United States Supreme Court decisions in Minor and Ark as follows;

“.....all children born in a country of parents who were its citizens became themselves, upon their birth, citizens also.....These were natives, or natural born citizens, distinguishing from aliens or foreigners.....”

43 Thus there are two identities of U.S. natives, (1)... those who are born on U.S. soil without parents who are U.S. citizens, these become U.S. citizens under the 14<sup>th</sup> amendment, and do not qualify for the Office of President, then (2)... those who are born on U.S. soil with parents who are U.S. citizens, these become “natural born citizens” under Article Two, Section One, Clause Five and qualify for the Office of President..

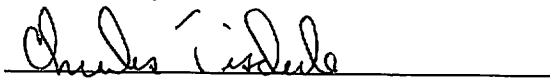
**REQUEST FOR RELIEF**

Plaintiff respectfully request the following relief:

A. A declaration that defendant Virginia State Board of Elections’ policy and practice of permitting ineligible candidates for the Office of President of the United States to appear on the November 6, 2012 General Election ballot, who are not “natural born citizens” be and are hereby preliminary and permanently enjoined.

- B. A preliminary and permanent injunction **enjoining** defendant Virginia State Board of Elections from certifying ineligible candidates for the Office of President of the United States in the November 6, 2012 Presidential General Election, specifically (1) Barack H. Obama, II, (2) Mitt Romney, (3) Rick Santorum, and (4) Ron Paul. Such persons shall show cause by \_\_\_\_/\_\_\_\_/ 2012 before the Virginia State Board of Elections of their qualifications as “natural born citizens” with proof that their parents were U.S. citizens at the time of their birth in the United States.
- C. A declaration to Defendant Neil H. Macbride as United States Attorney for the Eastern District of Virginia, to review the Federal Election Commission advisory decision in Abdul Hassan (September 2011) and report its findings to the Court.
- D. Costs under 42 U.S.C. 1988, and
- E. Such further relief as the Court deems just and proper.

Respectfully submitted

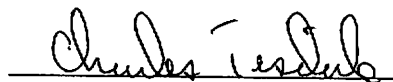


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#### VERIFICATION

I, Charles Tisdale, declare under penalty of perjury that the foregoing Verified Complaint is true and correct to the best of my knowledge.

Date: January 16, 2012



Charles Tisdale